

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

ANTONIO GORE, No. Civ. S-03-1269-DFL-KJM-P

Petitioner,

ORDER

v.

STEPHEN CAMBRA,

Respondent. /

Petitioner, a state prisoner proceeding pro se, brings this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Pending before the court is petitioner's request for a certificate of appealability.

Before petitioner can appeal this court's dismissal of his application for a writ of habeas corpus, a certificate of appealability must issue. See 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b). A certificate of appealability may issue under 28 U.S.C. § 2253 "only if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). The court must either issue a certificate of appealability indicating which issues satisfy the required

1 showing or must state the reasons why such a certificate should  
2 not issue. See Fed. R. App. P. 22(b). For the reasons set  
3 forth in the magistrate judge's Findings and Recommendations,  
4 petitioner has not made a substantial showing of the denial of a  
5 constitutional right. Specifically, petitioner has failed to  
6 demonstrate that a rational trier of fact could not have found  
7 beyond a reasonable doubt that he intended to kill the victim.  
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9 Accordingly, IT IS HEREBY ORDERED that petitioner's  
10 request for a certificate of appealability is denied.  
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12 IT IS SO ORDERED.  
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14 Dated: March 2, 2007  
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16  
17 /s/ David F. Levi \_\_\_\_\_  
18 DAVID F. LEVI  
United States District Judge  
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